

From: [Rita Mistretta](#)
To: [E-OHPSCA2713.EBSA](#)
Subject: Pregnancy is not a disease to be prevented
Date: Friday, September 16, 2011 8:05:39 AM

Dear Sir/Madam,

HHS has indicated a call for comment, but the regulations became effective August 1, 2011. It would appear that the only area subject to reconsideration is the very narrow definition of a "religious employer."

It is critical that the voices of all persons of conscience be heard, noting in particular that pregnancy is not a disease to be prevented and that contraception should not be a mandated "preventive health service."

Respect for conscience is foundational to a just society. At a minimum a robust conscience protection should be granted, not only for all religious employers, but also for all employers, insurers, and policy issuers with moral, ethical, or religious objections. As it is, the limitations contained in the regulations for religious employers make the exemption virtually meaningless.

Pregnancy is not a disease to be prevented, nor is the embryo an enemy who once conceived has no right of access to the nurturing womb of his or her mother. Not only do these mandates apply to all group health plans and health insurance issuers in the group and individual markets; they also apply to self-insured group health plans under the Employee Retirement Income Security Act (ERISA). There are few exemptions, and those pertain to group health plans which were in effect before the Health Care Reform was enacted, and those offered by employers who are deemed by HHS to qualify as a "religious employer."

The definition of a "religious employer," however, is so narrow that its applicability negates most of the religious employers in this country.

To be exempt from these new mandates an employer would have to hire and serve primarily those of one's own faith and have the inculcation of religious values as its purpose. (Although, it does appear that, after the fact, HHS is willing to accept comment on this definition).

The regulations state that this definition is consistent with most state laws in which exemptions for contraceptive coverage are allowed. The actual fact, however, is that there are only seven states with such provisions while a number of states have far more robust conscience protections.

It should be noted that the Catholic Church is the largest provider of non-governmental health, education, and social services in this country. Not only are individual employers who have a moral, ethical or conscience objection to paying for contraceptives for college students-a group specially referenced as needing these "preventive health services" before going back to college-not exempt, but also the majority of faith-based ministries in the United States who are committed to serving all persons and not just those of their own faith.

These regulations reflect an utter disregard for the foundational principles of the government promulgating them, i.e., that conscience is sacrosanct. We are left to ask, "What has happened to this great country?" "When did we lose the respect for conscience which inspired the very founding of our

country?" As Thomas Jefferson stated: "Our rules can have authority over such natural rights only as we have submitted to them. The rights of conscience we never submitted, we could not submit. We are answerable for them to our God." [Thomas Jefferson (1743-1826), U.S. President. Notes on the State of Virginia (1787), Query 17, p. 159, ed. William Peden (1954).]

Again we advise you to reconsider this language. It is critical that the voices of all persons of conscience be heard, noting in particular that pregnancy is not a disease to be prevented and that contraception should not be a mandated "preventive health service."

Sincerely,

David & Rita Mistretta
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